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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,528	05/26/2007	Ralf Zauritz	12400-067	9951
757	7590	12/16/2009	EXAMINER	
BRINKS HOFER GILSON & LIONE			WILHELM, TIMOTHY	
P.O. BOX 10395				
CHICAGO, IL 60610			ART UNIT	PAPER NUMBER
			3616	
			MAIL DATE	DELIVERY MODE
			12/16/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/588,528	ZAURITZ ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Timothy D. Wilhelm	3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 08 December 2009.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-13 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 9-13 is/are allowed.  
 6) Claim(s) 1-8 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 07 August 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/8/2009 has been entered.

### ***Drawings***

2. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because most of the drawings and reference numerals appear informal and hand-drawn with some of the reference numerals being slightly illegible. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3,7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Staub et al (US 6,059,312) hereafter referred to as Staub, in view of Gu et al (US 7,264,269), hereafter referred to as Gu. Staub discloses an airbag capable of responding differently to large and small occupants comprising a main chamber 20 and an auxiliary chamber 18 positioned on top of the main chamber 20, wherein the main chamber further comprises an outflow opening 16 formed partially by the auxiliary chamber 18 and a closing element 28 configured to throttle the flow of an inflation gas through the outflow opening 16 and out of the main chamber 20, wherein the closing element 28 is not engaged by a small occupant thus allowing gas flow through the opening 16, and wherein the closing element 28 is engaged by a large occupant contacting the airbag to thus restrict flow through the opening 16. Staub fails to disclose that the airbag is a side airbag as well as a pelvic chamber located on the bottom of the main chamber. Gu teaches a side impact airbag capable of responding differently to different sized occupants, said airbag comprising one main chamber 29 and one pelvic chamber 28 disposed on the bottom of the main chamber 29, wherein the chamber includes a porous wall 10 through which inflation gas may flow into an auxiliary chamber 58 (Fig. 3). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the airbag of Staub with the teaching of Gu such that the airbag could be used to protect an occupant in a side collision and include a pelvic chamber to ensure the safety and health of an occupant should the vehicle be impacted from the side and to cover more area with which the occupant may impact. With regard

to the added limitation that when the closing element is not engaged gas flow through the outflow opening is enabled and when the closing element is engaged the gas flow through the outflow opening is restricted, Figs. 3 and 4 of the Staub reference show that when the closing element 28 is not engaged (Fig. 3) gas flows freely whereas when it is engaged (Fig. 4), gas flow through the opening 16 is clearly restricted

5. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Staub and Gu, as applied to claims 1-3,7, and 8 above, and further in view of Tanase et al (US 2004/0124615), hereafter referred to as Tanase. Staub and Gu disclose the present invention except for the auxiliary chamber comprising an inner chamber. Fig. 13 of Tanase teaches a side airbag having a chamber, wherein the chamber has an inner chamber 18a, said inner chamber having a valve 21. Therefore, it would have been obvious to modify the side airbag of Staub and Gu Tanase with the teaching of Tanase by including an inner chamber in an auxiliary chamber to give the auxiliary chamber a higher thickness and thus greater strength during a collision.

#### ***Allowable Subject Matter***

6. Claims 9-13 are allowed.

#### ***Response to Arguments***

7. Applicant's arguments filed 12/8/2009 have been fully considered but they are not persuasive. Applicant has argued that none of the references, Staub in particular, disclose any association of closing of a closing element with the size of an occupant.

This is merely a functional limitation of the current application. Applicant has claimed that a large occupant engages the closing element while a small occupant does not. However, much as disclosed by Staub, any sized occupant that is out of position will strike the airbag and engage the closing element before the airbag is fully developed. The same may be said about an out of position occupant not striking the airbag and engaging the closing element due to being positioned too far inward from the vehicle wall. The combination of the references therefore still meets the functional limitations as set out by Applicant and performs the intended functions as a result.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy D. Wilhelm whose telephone number is 571-272-6980. The examiner can normally be reached on 9:00 AM to 5:30 PM Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-7742. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Timothy D Wilhelm  
Examiner  
Art Unit 3616

/Timothy D Wilhelm/  
December 14, 2009

/Paul N. Dickson/  
Supervisory Patent Examiner, Art Unit 3616